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असाधारण

EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 28th July, 2006:—

I

BILL No. IX OF 2006

A Bill to provide for the protection of farmers who are frequently affected by natural calamities and lose their crops, livestock, dwelling units, household items and foodgrains due to such calamities by paying them adequate compensation and for welfare measures such as old age pension, removal of indebtedness, remunerative prices for their produce to be undertaken by the State and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Farmers (Protection from Natural Calamities and Other Welfare Measures) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State the Government of that State and in other cases the Central Government;

(b) "farmer" means a person who owns land or cultivates land for agricultural or horticultural purpose and includes the spouse of such a farmer;

(c) "Fund" means the Farmers Welfare Fund established under section 5;

(d) "natural calamity" includes drought, floods, cyclones, tsunami, earthquakes, hailstorms, extreme cold conditions, and such other conditions as may be notified by the appropriate Government from time to time;

(e) "old age" means where the farmer has attained the age of sixty years or more;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "scheme" means the Farmers Credit Scheme framed under section 8.

Compensation
to farmers
affected by
natural
calamity.

3. (1) Notwithstanding anything contained in any other law for the time being in force, every farmer who has been affected by natural calamity by losing his crop, livestock, movable or immovable property shall be entitled to and shall be paid adequate compensation by the appropriate Government in accordance with the provisions of this Act.

(2) The amount of compensation, payable to a farmer affected by natural calamity shall be such as may be specified by the Central Government from time to time, by notification in the Official Gazette and while specifying the compensation, the total loss suffered by a farmer due to the natural calamity shall be taken into account.

(3) Every claimant for payment of compensation under this Act shall apply to the officer so appointed by the appropriate Government for the purpose in prescribed form giving such relevant information as may be prescribed:

Provided that a Village Panchayat may apply for compensation for all the affected farmers of the village and it shall be deemed that each farmer has applied for the compensation under this Act.

(4) Every claim for compensation under this Act shall be finalized and the payment made within thirty days of filing of the claim.

(5) The appropriate Government shall provide quality seeds, manure, fertilizers, etc. to every farmer who lost his crop due to natural calamity for restarting the agricultural operations.

Special
provisions with
regard to loans.

4. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be mandatory for all the public, private and co-operative sector Banks and financial Institutions to provide loans on easy terms with nominal or without interest to the farmers affected by natural calamity to restart the agricultural operations and allied activities and to withstand the severity of the calamity and its aftermath.

(2) The Banks and Financial Institutions referred to in sub-section (1) shall also not recover the earlier loan given to the farmers by them who have been affected by natural calamity for at least one year after the calamity and the farmers shall not be denied fresh loans on this ground.

Establishment
of Farmers
Welfare Fund.

5. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette establish the Farmers Welfare Fund for the purposes of this Act.

(2) The initial corpus of the Fund established under sub-section (1) shall be five thousand crore rupees of which four thousand crore rupees shall be provided by the Central Government, after due appropriation made by Parliament in this behalf and one thousand crore rupees shall be provided by the State Governments in proportion to their farmers population relevant for the purposes of this Act.

(3) After the initial constitution of the Fund, moneys shall be provided to the Fund by the Central and State Governments in such proportions and in such manner as may be prescribed from time to time.

(4) The Fund shall also consist of moneys received from general public, body corporates, financial institutions, domestic and foreign, as donations, gifts, etc.

(5) The fund shall be utilized for the welfare of farmers in such manner as may be prescribed.

6. (1) The appropriate Government shall take such appropriate measures as it may deem necessary and expedient for the removal of indebtedness amongst the farmers and in particular shall endeavour to save them from the local moneylenders who exploit the farmers.

Removal of
Indebtedness
amongst the
farmers.

(2) For the purposes of sub-section (1) the appropriate Government shall, endeavour to give remunerative prices and provide compulsory insurance for the produce of the farmers.

7. (1) The appropriate Government shall, on an application made in the prescribed form, pay old age pension to every old farmer which shall not be less than one thousand rupees per month from the date of commencement of this Act:

Old age
pension to
farmers.

Provided that the old age pension shall be subject to revision on the basis of prevailing price index.

(2) The old age pension payable under sub-section (1) shall be paid to the farmers by the appropriate Government in such manner as may be prescribed.

(3) Any farmer who is in receipt of any pension from the appropriate Government other than the one under this Act or is having adequate source of income shall forfeit his right to claim old age pension under this Act.

8. (1) The Central Government shall in consultation with the Government of the States, frame a scheme to be known as the "Farmers Credit Scheme" to be executed by Banks and Financial Institutions.

Farmers Credit
Scheme.

(2) The Scheme shall provide for,—

- (a) the terms and conditions for extending credit to farmers;
- (b) the extent to which the credit can be given and settling of previous loans taken, if any;
- (c) the nominal interest that may be charged on farmers credit;
- (d) the concessions which are to be given in respect of the credit in case of natural calamity;
- (e) such other things which the Central Government may deem necessary for the purposes of this Act.

(3) The Central Government shall issue such guidelines to the Banks and Financial Institutions as it may deem necessary for carrying out the purposes of this Act.

9. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide the adequate funds at the disposal of the States for carrying out the purposes of this Act.

Central
Government to
provide
requisite funds.

10. The provisions of this Act, shall be in addition to and not in derogation of any other law for the time being in force in any part of the country dealing with the welfare of farmers.

Act to
supplement
other laws.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make
rules.

STATEMENT OF OBJECTS AND REASONS

Ours is a vast country and so is the number of farmers which is in crores and they constitute nearly seventy per cent of our total population. Due to its vastness, natural calamities do occur in one part or the other almost round the year. For instance, the whole of Rajasthan, parts of Gujarat, Maharashtra, Bihar, Uttar Pradesh, Jharkhand, Madhya Pradesh, Chhattisgarh, etc. are drought prone. Every year half of Bihar is flooded and the other, half faces drought. Similarly, in Southern States, coastal areas are lashed with cyclones or even by tsunami whereas other parts face drought conditions. Many parts of the country face earthquake, hailstorm, cloud bursts, extreme cold conditions and other natural calamities. Farmers mostly bear the brunt of such natural calamities. They lose their crops, livestock and many a time their dwelling units and household items including foodgrains. Despite this, the farmers are hounded by the moneylenders to get back their money taken by the farmers hoping to repay after reaping the good harvest. But natural calamity dashes their hopes and with this, many of them end their lives. Thousands of farmers have committed suicide in recent years in Andhra Pradesh, Maharashtra, Punjab, Uttar Pradesh, Madhya Pradesh, Tamil Nadu, Karnataka, etc.

It is a pity that our farming community is under indebtedness and it is a chronic and continuing problem for them which has to be removed through consistent efforts. Due to increase in life expectancy, the number of old farmers is increasing very fast and most of them are not supported by their children due to various reasons compelling them to lead a miserable life.

Since ours is a welfare State, the Government is duty bound to provide social security to the farmers by giving them old age pension, remunerative prices and come to their rescue at times of distress by giving them adequate compensation if they are affected by natural calamity and by taking other welfare measures.

Hence this Bill.

SANTOSH BAGRODIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the compensation to farmers affected by natural calamity. Clause 5 establishes Farmers Welfare Fund. Clause 7 provides for old age pension to farmers and Clause 9 provides that Central Government shall provide requisite and adequate funds to States for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees five hundred crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL No. VII OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

Short title and
commencement.

(2) It shall come into force with immediate effect.

2. After article 38 of the Constitution, the following article shall be inserted,
namely:—

Insertion of
new article
38A.

38A (1) Notwithstanding anything in this Constitution, the Union shall strive to
promote and develop with special care,—

(a) sports and sports persons right from the grass root levels to enable them to
compete at international competitions;

(b) sports infrastructure such as stadia with necessary facilities, gadgets and tracks of international standards with sufficient number of coaches and allied services to groom up players;

(c) sports at school and college levels by making it compulsory for all the students;

(d) sports at village to national levels by holding sports melas and competitions from time to time;

(2) Parliament may by law regulate the sports associations and federations so that they seriously promote the sports for which they have been set up.

Amendment
of the Seventh
Schedule.

3. In the Seventh Schedule to the Constitution,—

(i) in List I — Union List, after entry 68, the following entry shall be inserted, namely:—

“68A. Sports.”; and

(ii) in List II — State List, in entry 33, the word “sports” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Ours is the second most populous Country in the globe after China. Though China has a dominant presence in sports at international level, we have not made even our presence felt in international sports activities except in cricket, which is played only in few countries of the Commonwealth. In the Olympics and other international sports meet, our performance is very dismal. In fact, no sincere efforts have ever been made by us to arrest the declining standards of sports in the country. Our sports bodies have been politicized and instead of promoting sports they generally promote individual interests and are marred with politics. It is a pity that though our country is endowed with various climatic conditions suitable for developing all kinds of sports and games, we are nowhere in the arena of sports in the world.

One common reason cited for this poor state of affairs in sports is that the subject is in the state list of the Seventh Schedule to the Constitution and because of poor economic condition of most of states, sufficient focus is not being given to sports activities in the country both by the Centre as well as the States. It is felt that in order to give proper attention and promotion to sports, the subject of 'Sports' should be transferred to Union List from the State List. It is also necessary to have a national sports policy to encourage all sports activities and games in the country.

Hence this Bill.

SANTOSH BAGRODIA.

III

BILL NO. XXII OF 2006

A Bill to provide for the maintenance and welfare measures to be undertaken by the State for the destitute, neglected, old, infirm or physically challenged widow, divorcee or unmarried women through establishment of an Authority and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Destitute and Neglected Women (Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “Authority” means the Destitute and Neglected Women Welfare Authority established under Section 3;

(c) “destitute” in relation to a women who may be a widow, divorcee or unmarried means a women who has no relative or kinsmen to support her or who has no independent source of livelihood including the livelihood to her minor children dependent on her or any woman stricken with infirmity owing to old age, physical deformity, ailment, mental imbalance and who lives uncared for;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “widow” means an adult female human whose husband has died after her legal marriage.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish the Destitute and Neglected Women Welfare Authority for the purposes of this Act.

Establishment of the Destitute and Neglected Women Welfare Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Bangalore in the State of Karnataka;

(4) The Authority shall establish its branches in all the States and Union Territories at such conspicuous places as may be prescribed;

(5) The Authority shall have a Secretariat with such number of officers and employees, with such terms and conditions of service as may be necessary for the efficient functioning of the Authority as may be prescribed.

(6) The Authority shall consist of —

(a) a Chairperson, who shall be the Minister-in-charge of the Union Ministry of Social Justice and Empowerment;

(b) a Vice-Chairperson with such qualifications as may be prescribed to be appointed by the Central Government;

(c) three members of Parliament of whom two shall be from the Lok Sabha and one from the Rajya Sabha to be nominated by the respective Presiding Officers of each House;

(d) two members representing the Union Ministry of Human Resource Development to be appointed by the Central Government;

(e) not more than five members to be appointed by the Central Government in consultation with the Governments of States, by rotation in alphabetical order, to represent the Governments of the States;

(f) four members to be appointed by Central Government from amongst the Non-Governmental Organizations working for destitute women or widows.

4. (1) It shall be the duty of the Authority to promote by such measures, as it thinks fit or appropriate, welfare measures for destitute or neglected women or widows of the country.

Functions of the Authority.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Authority shall,—

(a) maintain district-wise register of destitute or neglected women or widows who are in need of assistance from the Authority with such details and in such manner as may be prescribed;

(b) work out plans and formulate schemes for the welfare of destitute or neglected women or widows covered under this Act;

(c) give wide publicity through the electronic and print media about the welfare measures being undertaken by the Authority;

(d) perform such other functions not inconsistent with the provisions of this Act, as may be assigned to it by the appropriate Government from time to time.

Facilities to the destitute or neglected women or widows.

5. The appropriate Government shall, on the recommendation of the Authority, provide the women covered under this Act, the following facilities, namely:—

(a) monthly allowance of two thousand rupees if the woman is having any dependent children and rupees one thousand five hundred in case she has no dependent child as subsistence allowance;

(b) residential accommodation free of cost wherever necessary;

(c) free education including technical education to dependent children;

(d) free medical aid;

(e) gainful employment;

(f) free vocational education wherever necessary;

(g) such other facilities, as may be necessary, for her rehabilitation, proper development, and for maintaining a respectable life in the society:

Provided that if any woman covered under this Act either gets gainful employment or remarries, all the facilities provided to her and her dependent children in accordance with the provisions of this Act shall be withdrawn from the date she gets the gainful employment or remarries, as the case may be.

Central Government to provide funds.

6. The Central Government shall provide adequate funds to the Authority, after due appropriation made by Parliament by law in this behalf, from time to time for carrying out the purposes of this Act.

Act to have overriding effect.

7. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to women covered under this Act.

Power to make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Quite a large number of women in our Country particularly those belonging to lower and middle income groups or classes of the society become destitute after the death of their husbands who do not leave adult sons behind them or are divorced women or unmarried women either neglected by their families or being lonely have no means to support them. It has also been seen that in many cases the widows are thrown out of the households. Many of them work as housemaids for their survival and to support the children if they have the ones. But even this is not possible for the infirm, old, physically or mentally challenged women who mostly survive on begging. Many women are forced into flesh trade and become sex workers to avoid starvation, which makes their lives disgraceful. The position of destitute women is more awful in rural areas because being illiterate they are exploited to the extent possible.

It is expedient to liquidate the exploitation of the destitute, neglected women or widows in a Welfare State like ours and provide financial assistance and other necessary facilities to such women so that they live honourably in the society. For this purpose an Authority should be established to ensure that the conditions of destitute, neglected women or widows should not become so miserable due to poverty which may enable the unscrupulous elements of the society to exploit the situation and make their lives disgraceful in the Society.

Hence this Bill.

PREMA CARIAPPA.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Destitute and Neglected Women Welfare Authority. Clause 5 provides for certain facilities to the destitute and neglected women. Clause 6 lays down that Central Government shall provide requisite funds. The Bill if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five hundred crore may involve as recurring expenditure per annum.

Non recurring expenditure to the tune of one hundred crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL NO. XXXI OF 2006

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and
commencement..

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 2006.
- (2) It shall come into force with immediate effect.

Amendment
of section 304.

2. In section 304 of the Indian Penal Code, 1860 (hereinafter referred to as the Penal Code), the following proviso shall be added at the end, namely:—

“Provided that if death is caused to a girl or a woman, the accused committing such homicide shall be punished with imprisonment for whole life and shall also be liable for fine which may extend to two lakh rupees.”

Amendment
of section 304B.

3. In sub-section (2) of section 304B of the Penal Code, for the words “seven years” the words “ten years” shall be substituted.

Amendment
of section 312.

4. In section 312 of the Penal Code, before the Explanation the following proviso shall be inserted, namely:—

“Provided that if the miscarriage is of a female foetus caused after a sex determination test, the person or the pregnant woman, as the case may be, causing

miscarriage of such female foetus shall be punished with rigorous imprisonment which shall not be less than seven years but may extend to imprisonment for life and shall also be liable to fine which may extend to one lakh rupees."

5. In section 313 of the Penal Code, the following proviso shall be added, namely:—

Amendment
of section 313.

"(2) Provided if a miscarriage of a female foetus is caused after pre-natal sex determination test, the accused shall be punished with imprisonment for life and shall also be liable to fine which may extend to two lakh rupees.

• 6. In section 314 of the Penal Code,—

Amendment
of section 314.

(i) for the words "imprisonment of either description for a term which may extend to ten years and shall also be liable to fine" the words "rigorous imprisonment which shall not be less than ten years and shall also be liable to fine which may extend to two lakh rupees" shall be substituted.

(ii) before the Explanation the following proviso shall be inserted, namely:—

"Provided that if the miscarriage is caused after conducting a pre-natal sex determination test of the foetus confirming it to be a female foetus, the person causing the miscarriage shall be punished with rigorous imprisonment for life and shall also be liable to fine which may extend to two lakh rupees."

7. Section 315 of the Penal Code shall be re-numbered as sub-section (1) thereof and after the sub-section (1) as so re-numbered the following sub-section shall be inserted, namely:—

Amendment
of section 315.

"(2) If the offence referred to in sub-section (1) is committed after conducting a pre natal sex determination test confirming a female foetus, the person committing such an offence shall be punished with rigorous imprisonment for life and shall also be liable to fine which may extend to two lakh rupees.

8. Section 316 of the Penal Code shall be re-numbered as sub-section (1) thereof and after the sub-section (1) as so re-numbered the following sub-section shall be inserted, namely:—

Amendment
of section 316.

"(2) If the offence referred to in sub-section (1) is committed after conducting a sex determination test confirming that the quick unborn child is a female child, the person doing such as act shall be punished with rigorous imprisonment for life and shall also be liable to fine which may extend to one lakh rupees."

9. Section 317 of the Penal Code shall be re-numbered as sub-section (1) thereof and after the sub-section (1) as so re-numbered the following sub-section shall be inserted, namely:—

Amendment
of section 317.

"(2) If the child so exposed or abandoned is a girl child, the person doing so shall be punished with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees."

10. Section 318 of the Penal Code shall be re-numbered as sub-section (1) thereof and after the sub-section (1) as so re-numbered the following sub-section shall be inserted, namely:—

Amendment
of section 318.

"(2) If the child whose dead body is so disposed of is of a girl child the person committing such offence shall be punished with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine which may extend to fifty thousand rupees."

11. In section 376 of the Penal Code, after sub-section (2), the following sub-sections shall be inserted, namely:—

Amendment
of section 376.

"(3) Notwithstanding anything contained in sub-section (2) whoever commits rape on a woman when she is under ten years of age shall be punished with death.

(4) Whoever commits incestuous rape on a woman shall be punished with death."

STATEMENT OF OBJECTS AND REASONS

In our country, on the one hand the progress and prosperity is hampered by the booming population and on the other the dwindling sex ratio, that is of lesser female population, is also a cause of concern. The latest census of 2001 has revealed a disturbing trend of fast declining sex ratio of below 900 females per thousand males in many of the States including Haryana, Punjab, Himachal Pradesh, Gujarat and others. This is happening mainly due to premature and induced abortions of female foetus after sex determination tests which are being carried out on a very large scale in the country. Though sex determination is illegal, much of it is attributable to male preference in the families. Although abortions for containing family size is legal, but abortions in very large numbers are carried out to destroy female foetus after illegal pre natal sex determination tests only to avert birth of female child. This alarming situation has started showing ugly trends in some States where people are purchasing their brides from other States. This trend may result in social chaos in the near future so it has to be effectively curbed so as to correct the declining sex ratio by providing deterrent provisions in the Indian Penal Code.

Similarly, there has been unprecedented increase in the rape cases committed on women and girls which is the worst kind of criminal offence against women and humanity. It becomes more heinous once it is committed on minor girls. Such beasts do not deserve any leniency and must be hanged to death. Similarly, our heads bow in shame when we come across incestuous rapes committed on women and girls by none other than the trusted relatives. What can be more shameful than a father committing rape of his own daughter or a brother raping his sister. Such relatives must not be spared and must be hanged to death. This will have a deterrent effect on the society.

Hence this Bill.

PREMA CARIAPPA

V

BILL NO. XLVII OF 2006

A Bill to provide for creation of employment opportunities by way of reservation and other means and for compulsory payment of unemployment allowance by the Central Government to the visually handicapped citizens and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Visually Handicapped Persons (Employment Opportunities and Miscellaneous Provisions) Act, 2006. Short title, extent and commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "employer" means any person who employs twenty or more persons to do any work in an establishment for remuneration;

(c) "establishment" means,—

(i) any officer; or

(ii) any place where any industry, trade, business or occupation is carried on;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "registration officer" means the officer who shall be responsible for the registration of visually handicapped persons for the purposes of this Act;

(f) "visually handicapped person" means any person who has total absence of sight or vision.

Act not to
apply to certain
employments.

3. The provisions of this Act shall not apply in relation to,—

(a) any employment in agriculture or horticulture;

(b) any employment in domestic or household service;

(c) any employment, the total duration of which is less than three months;

(d) any employment which carries remuneration of less than rupees two hundred per month.

Compulsory
reservation of
certain percent-
age of vacancies
in employment
by employers.

4. Notwithstanding anything contained in any other law for the time being in force from the date of commencement of this Act, every employer shall reserve not less than five percent of the vacancies occurring in any calendar year in any employment in his establishment to be filled in from amongst the visually handicapped persons registered under this Act.

Appointment
of Registration
officers.

5. The appropriate Government shall, by notification in the Official Gazette, appoint as many Registration Officers as it may deem necessary for the purpose of registration of visually handicapped persons and may also demarcate the area within which each such officer shall exercise jurisdiction.

Registration of
visually
handicapped
persons.

6. (1) Every visually handicapped person possessing the prescribed qualifications or experience, as the case may be, shall get himself registered on an application made, in such form and containing such particulars, as may be prescribed, to the respective Registration Officers within whose jurisdiction he resides.

(2) On receipt of an application under sub-section (1), the Registration Officer may cause such enquiries, as it deem necessary, to be made and if he is satisfied that the applicant is a visually handicapped person and possesses the prescribed qualifications or experience, shall register his name in a register and issue to the applicant a certificate of registration in the prescribed form or an identity card, as the case may be.

(3) The Registration Officer shall maintain the Register in such form and in such manner as may be prescribed.

Employers to
notify
vacancies.

7. Notwithstanding anything contained in any other law for the time being in force, every employer shall, before filling up any reserved vacancy in his establishment shall notify that vacancy to the concerned Registration Officer within whose jurisdiction that establishment is situated.

Actions to be
taken by the
Registration
Officer.

8. (1) As soon as may be, after the receipt of information about vacancies under section 7, the Registration Officer shall furnish a list of visually handicapped persons registered with it containing such particulars as may be prescribed to the employer notifying the vacancies who shall within the prescribed period fill up the requisite percentage of vacancies prescribed in Section 4 by appointing such of the visually handicapped persons as he considers suitable and shall inform in writing the fact of such appointment to the Registration Officer.

(2) If any dispute arises between the employer and the Registration officer as to the suitability of a visually handicapped person for appointment or as to whether such person is visually handicapped or not, such dispute shall be referred to the appropriate Government whose decision thereon shall be final.

9. (1) When a visually handicapped person has been appointed to fill up any vacancy in an establishment, the Registration Officer shall remove the name of such person from the register after a period of one year from the date of his appointment. Removal of names from the Register.

(2) Where a visually handicapped person is discharged or removed after being appointed by the employer on just and genuine grounds, nothing in this Act shall preclude such person to get himself registered again with the Registration Officer in accordance with the provisions of this Act.

10. (1) Where in any year any vacancies in an establishment reserved under this Act can not be filled up either due to non availability of suitable visually handicapped candidates or for other genuine reasons, such vacancies shall be carried forward to the succeeding year and so on upto the end of the fourth year. Vacancies to be carried forward.

(2) For the purposes of sub section (1), a visually handicapped person shall not be deemed to be unsuitable to fill up the vacancy unless a certificate in this behalf is obtained by the employer from the Registration Officer.

11. (1) Every employer shall maintain such records giving such particulars of the visually handicapped persons employed in his establishment in such manner as may be prescribed. Employer to maintain records.

(2) The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorized in this behalf by general or special order by the appropriate Government.

12. Every visually handicapped person registered under this Act and who remains unemployed thereafter shall be entitled for unemployment allowance till such time he is given an employment and the Central Government shall give unemployment allowance of rupees one thousand per month to him in such manner as may be prescribed. Payment of unemployment allowance.

13. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for the purposes of this Act. Central Government to provide funds.

14. If any employer contravenes the provisions of this Act, he shall be punishable with imprisonment for a term, which shall not be less than one year but may extend to three years and also with fine which may extend to one lakh rupees. Penalty.

15. Where an offence under this Act has been committed by a Company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by Companies.

Provided that nothing contained in this section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he had exercised all due diligence to prevent the commission of such offence.

16. Where an offence under this Act has been committed by any department of the Central Government, the Secretary or the head of department by whatever name called of such department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Offences by Government departments.

Provided that nothing contained in this section shall render the head of such department liable to any punishment under this Act, if he proves that the offence was committed without

his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Overriding
effect of the
Act.

17. The provisions of this Act and of any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to visually handicapped persons.

Power to make
rules.

18. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

As per National Survey on Blindness (2001—03) there are estimated 1.2 crore visually handicapped or blind persons in the country and the estimated prevalence of blindness is 0.91 per cent in males and 1.29 per cent in females. For these unfortunate visually handicapped persons darkness has become part of their lives. Shockingly their number is increasing despite the fact that a National Programme for Control of Blindness is under implementation in the country. The visually handicapped persons face all sorts of odds in their day to day life and more so the visually handicapped females. To provide education to the visually handicapped persons Governments are running Blind Schools and Training Centres to give them vocational training but number of such schools and Training Centres is awfully very short. But the worst comes when the visually handicapped despite acquiring educational qualifications and vocational training do not get employment and remain neglected in the society. Many of them are very talented and can deliver the goods but they are denied employment on one pretext or the other. In Government jobs one per cent vacancies are reserved for visually handicapped persons but even this small percentage is not fully filled up and there remains backlog of vacancies for one reason or the other whereas qualified visually handicapped persons are running from pillar to post to find employment leading to frustration and distress. Now they are agitating in streets and before Government offices. Hence in a Welfare State like ours adequate employment opportunities have to be provided to these unfortunate brothers and sisters of our society so that they too can lead a good life.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the appointment of Registration Officers. Clause 12 provides for the payment of unemployment allowance to the visually handicapped persons. Clause 13 provides that Central Government shall provide adequate funds for the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores may involve as recurring expenditure per annum.

No non recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 18 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VI

BILL NO. XLVI OF 2006

A Bill to provide for the compulsory basic school level education for the girl child free of cost in order to eradicate their illiteracy and for deterrent punishment for those who prevent the girl child from going to school and pursuing her studies in any manner and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Girl Child (Compulsory Basic Education) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "basic education" means education in a school up to senior secondary level or twelfth standard or class;

(c) "girl child" means any female human being who is below the age of eighteen years;

(d) "parent" in relation to a girl child include her father and mother, guardian and every person who has the actual custody of the girl child for the time being;

(e) "prescribed" means prescribed by rules made under this Act.

Parents to compulsorily admit the girl child in school for basic education.

3. (1) Notwithstanding any custom, usage or belief of any section of the society, every parent shall compulsorily admit his girl child in a school, on completion of five years of age in order to enable her to get basic education and shall not restrain her in any manner from attending the school.

(2) whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Prohibition of employing girl child hampering her school education.

4. For the purposes of section 3 no parent or person shall engage a girl child in any household chore or employ a girl child in a manner which may prevent the girl child from attending her school and deprive her from basic education.

Appropriate Government to provide free and compulsory education to girl child.

5. (1) The appropriate Government shall provide free and compulsory education to every girl child who is ordinarily residing within its territorial jurisdiction.

(2) For the purposes of sub-section (1) the appropriate Government shall establish such number of schools within its territorial jurisdiction as it may deem necessary and for the physically challenged girl child shall establish special schools at such place or places as the appropriate Government may deem necessary with such facilities as may be prescribed.

(3) If any girl child intends to pursue higher studies beyond the basic education stage, the appropriate Government shall provide free higher education to such girl child.

(4) The appropriate Government shall also provide training to the girl child in vocations like home science, doll making, tailoring, painting, knitting, weaving, food preservation, beautician, interior decoration, nursing, computer education, etc. for her development.

Central Government to provide necessary funds.

6. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide necessary funds, from time to time, for the purposes of this Act.

Penalty.

7. (1) If any parent of a girl child, for any reason whatsoever, does not admit, prevents, restrains or in any manner obstructs the girl child from receiving basic education, he shall be liable to simple imprisonment for a term which may extend to six months and also with a fine which may extend to twenty thousand rupees.

(2) Whoever employs a girl child resulting in obstructing her from attending the school for basic education shall be liable to imprisonment for a term which shall not be less than two years but may extend to five years and also with fine which may extend to one lakh rupees.

Offences to be cognizable.

8. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable. 2 of 1974.

Act to have overriding effect.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law applicable to the girl child.

Power to make rules.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

It is awesome and pitable that even in this age of scientific advancements, modernization and progress in all walks of life, the girl child is the most neglected and unwanted in the world and more so in our country. Most of the families do not want to have a daughter. The girl is killed in the womb of her mother itself if the female foetus is detected in the sex determination tests, which are conducted illegally on a very large scale throughout the country. The latest Census (2001) has revealed a stunning fact about the steep decline in male-female ratio in the country and more so in the northern and western states where the female ratio has declined to the dangerous levels. Further, the hapless girl child is consistently neglected in many homes. The condition of girl child in the orthodox families particularly in rural and tribal areas is the worst. While the boy gets the best of attention, the girl is generally neglected. Every family tries to send the boy to the best school but the girl is not sent for school education. Girls are denied even the basic schooling. They are forced to do the household chores and married off at a very tender age. In the cities the poor girls can be seen working as maids in households which, in fact, is their school going age. In the cities and Metropolitans many families give equal treatment to the girl child and in some rare cases the girl child is given more weightage and facilities, love and care but their percentage is negligible. Majority of girls remain illiterate and exploited throughout their lives. This leads to further illiteracy among the future generation of the girl child and this vicious cycle goes on.

Hence it has become necessary to take some drastic steps by making basic education compulsory and mandatory so as to remove illiteracy amongst the girl child. If the girl child becomes literate she will not allow her children later to remain illiterate. This will eradicate illiteracy from the country. It is therefore, proposed in this Bill that the parents must send the girl child to school for basic education otherwise they should be punished. The Government too should open adequate number of schools for the girls and provide necessary facilities in such schools. This will have the desired results and illiteracy amongst the girl child will be eradicated very soon.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for free and compulsory education to girl child by opening schools, special schools, etc. Clause 6 provides that Central Government shall provide necessary funds for the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore may involve as recurring expenditure per year.

A sum of rupees five thousand crore may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the provisions of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VII

BILL NO. XLV OF 2006

A Bill to provide for the measures to be undertaken by the State for the protection and maintenance of neglected, abandoned and destitute widows by establishing a Welfare Board for such widows and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Widows (Protection and Maintenance) Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

Short title,
extent and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "abandoned widow" means a widow who has been deserted or thrown out of the household by her relatives to fend for herself and who has no means to support her and her dependent children, if any;

(b) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(c) "Board" means the National Widows Welfare Board established under Section 3;

(d) "destitute widow" means a widow stricken with infirmity due to old age, physical disability, chronic ailment, mental imbalance or who is too poor having no source of income with or without dependent minor children;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "widow" means a woman whose husband has expired after her legal marriage.

Establishment
of the National
Widows
Welfare Board.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Board to be called the National Widows Welfare Board for the purposes of this Act.

(2) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The Head Office of the Board shall be situated at such place as may be decided by the Central Government and the Board may establish its branches in the States and Union Territories in such manner as may be prescribed.

(4) The Board shall consist of, —

(a) a chairperson *ex-officio* who shall be the Minister in charge of the Union Ministry of Social Justice and Empowerment;

(b) a vice-chairperson preferably a widow to be appointed by the Central Government;

(c) three members of Parliament of whom two shall be from Lok Sabha and one from the Rajya Sabha to be nominated by the respective presiding officers of each House;

(d) two members representing the Department of Women and Child Development of the Union Ministry of Human Resource Development to be appointed by the Central Government;

(e) not more than four members to be appointed by the Central Government in consultation with the Governments of States, by rotation in alphabetical order, to represent the Governments of the States; and

(f) three members to be appointed by the Central Government from amongst the Non Government Organizations working for the welfare of widows.

(5) The Board shall follow such procedure in discharge of its agenda and hold meetings in such manner as may be prescribed.

(6) The Board shall have a Secretariat with such number of officers and employees with such terms and conditions of service, as may be necessary for the efficient functioning of the Board as may be prescribed.

Welfare Fund.

4. The Board shall have a Welfare Fund for the widows known as the Widows Welfare Fund to which shall be credited all receipts from the Central Government, State Governments other institutions, organizations, body corporate of public or private sector, and individual for the welfare and maintenance of the needy and destitute widows.

Functions of
the Board.

5. (1) The Board shall promote and provide, by such measures as it thinks fit for the protection, maintenance and welfare of neglected, abandoned and destitute widows with or without dependent children.

(2) Without prejudice to the generality of the provisions of sub-section (1) the Board shall,—

(a) maintain district wise register of widows with such particulars and in such manner as may be prescribed;

(b) collect and get verified the antecedents of every widow covered under this Act to assess her need for assistance in such manner as may be prescribed.

(c) perform such other functions as may be assigned to it from time to time.

6. The Board shall provide to the needy and destitute widows, on an application prescribed for the purpose the following facilities, namely:—

Facilities to be provided to the widows.

(a) Subsistence allowance of rupees two thousand per month in case the widow is infirm and destitute or is having one or more dependent children or rupees one thousand per month in case she has no dependent child;

(b) residential accommodation free of cost wherever necessary;

(c) free education including technical education to the dependent children of the widows;

(d) gainful employment;

(e) vocational training wherever required;

(f) such other facilities as may be necessary and as may be prescribed:

Provided that if a widow covered under this Act gets gainful employment or remarries, the facilities provided to her under this Act shall stand withdrawn from the date such widow gets employment or remarries, as the case may be:

Provided further that a widow residing with her in-laws or parents according to custom or due to other circumstances shall not be denied the facilities under this Act on this ground.

7. Notwithstanding anything contained in any other law for the time being in force or in any custom, a widow,—

Miscellaneous provisions.

(i) shall not be evicted or thrown out of the House of the in-laws or parents, as the case may be, where such widow was residing at the time of death of her husband;

(ii) shall be entitled to inherit the property or the share of her late husband in case of joint ownership of the property from her in-laws; and

(iii) shall be entitled for maintenance from the heir or in-laws who abandon a widow at religious place like Mathura, Vrindavan, etc. for *bhajan* chanting for subsistence.

8. The Central Government shall, after due appropriation made by Parliament in this behalf by law, provide adequate requisite funds for carrying out the purposes of this Act.

Central Government to provide requisite funds.

9. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the widows.

Act to have overriding effect.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

In our country there are millions of unfortunate women who lose their husbands, many a time untimely, and become widows and their number is nearly three per cent of our population. Very large number of widows particularly from the lower and middle income groups of our society become destitute after the death of their husbands. More than fifty per cent of these widows are old without any means to support themselves. Their position becomes more miserable if they have dependent children to support and bring up. They work as housemaids and take up other jobs for survival. It is very common in our society that when a widow does not have a source of livelihood or permanent source of income they are driven out of their in-laws homes or even from their parental homes. Sometimes condition of such widows becomes so miserable due to poverty and other compelling reasons that they are exploited to the extent possible and their life is made disgraceful. Many old widows suffering from infirmity due to old age, disability or ailment can be seen begging in the streets and public places. Many young widows are not only sexually exploited by their known ones but also forced into prostitution. Due to superstition at many places, they are treated as bad omen and are kept away from auspicious functions of the households.

Ours is a welfare state, therefore, the State is duty bound to initiate welfare measures and protect and provide maintenance to the hapless widows so that they too live honourably in the society. For this purpose and autonomous Welfare Board should be established to exclusively look after the welfare of needy widows.

Hence this Bill.

SUSHMA SWARAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the National Widows Welfare Board. Clause 4 provides for the Welfare Fund. Clause 6 provides for facilities to widows. Clause 8 provides that Central Government shall provide adequate requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure of rupees two hundred crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VIII

BILL NO. XLIV OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2006.

Short title.

2. In the Eighth Schedule to the Constitution, existing entries 14 to 22 shall be re-numbered as entries 15 to 23 respectively and before entry 15 as so re-numbered, the following entry shall be inserted, namely:—

Amendment
of Eighth
Schedule.

“14. Mizo.”

STATEMENT OF OBJECTS AND REASONS

“MIZO”, is the language spoken not only by the people living in the state of Mizoram, but also a large number of people living in southern part of Manipur State, North Cachar Hills of Assam, Jampui Range of Tripura State and some parts of Myanmar and Bangladesh. About thirty lakh people speaking it worldwide.

Mizo language, despite its very late standardization and formation of Mizo alphabet in 1894, has a rich literature both in poetry and prose and it has come a long way within a very short span of time. Within a period of less than hundred years, it has achieved the distinction of being the second highest literacy rate in the country amongst the speakers of this language. However, Mizo language does not get due recognition because of its non inclusion in the VIII Schedule, and further development of the language will be possible only after its inclusion in the VIII Schedule of the Constitution.

Moreover, for eliminating the feeling of alienation/isolation and indifference from the minds of the people of the North East India, it is utmost necessary to include this language in the VIII Schedule for national integration. Inclusion of Mizo in the VIII Schedule of the Constitution will surely send the right signal to the people of the area for integration and oneness.

Hence this Bill.

LALHMING LIANA

IX

BILL NO. XLVIII OF 2006

A Bill to provide for the welfare measures to be undertaken by the State for the rural labour employed in the agriculture sector and allied activities thereto and other rural occupations by establishing a Welfare Fund for such labour and for taking other measures to improve the living conditions, working conditions and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Rural Labour (Welfare) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "employer" includes cultivator, orchard owner, poultry farm owner, livestock rearer, agency society, food processing unit, crusher, oil or pulses mill or any such establishment located in any rural area which employs rural based labour;

(c) "Fund" means the Rural Labour Welfare Fund established under section 4;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "rural labour" means any person residing in a village and engaged in any rural vocation such as agriculture, horticulture, sericulture, poultry, rearing of livestock including piggery, food processing, handicrafts, weaving or any such other occupation as a wage earner whether in cash or kind, for his livelihood and includes any person engaged through a contractor or engaged as a self employed person.

National
Policy for
rural labour.

3. (1) The Central Government shall, as soon as may be, formulate a National Policy for the betterment and welfare of the rural labour.

(2) The national policy so formulated under sub-section (1) shall be uniformly implemented throughout the country and the policy may incorporate provisions for uninterrupted work round the year, minimum remunerative wages, healthcare including maternity facilities, old age pension, compensation in case of accident and such other facilities as may be deemed necessary.

Establishment
of Rural
Labour
Welfare Fund.

4. (1) The Central Government shall, with effect from such date as may be specified by notification in the Official Gazette in this behalf, establish for the purposes of this Act, a Fund to be called the Rural Labour Welfare Fund which shall be administered by the Central Government in such manner as may be prescribed.

(2) The Central Government shall after due appropriation made by Parliament by law in this behalf, credit to the Fund in each financial year such sums of money as it considers necessary for carrying out the purposes of this Act.

(3) The Fund shall also consist of the moneys received from,—

- (a) the Governments of the States as contributions, towards the Fund;
- (b) the body corporates as donations;
- (c) financial institutions and other institutions, domestic and foreign ones as assistance;
- (d) donations from the employers and general public and bodies.

(4) The Fund shall be utilized to promote the welfare measures for the rural based labour which are necessary or expedient to do and in particular to defray the costs towards,—

- (i) improving educational facilities for the children of rural based labour;
- (ii) improving water supply for drinking and other purposes;
- (iii) improving the standard of living and nutrition for the families of rural based labour;
- (iv) amelioration of social condition of rural based labour;
- (v) providing housing and recreational facilities;
- (vi) providing medical facilities to the rural based labour and their families;
- (vii) providing financial assistance in case of infirmity or disability due to accident etc.;
- (viii) old age pension to the rural based labour;
- (ix) providing and improving the welfare measures included in the national policy and such other welfare measures as may be prescribed;

5. The Central Government may require a State Government or Union Territory Administration or a local authority or any employer to furnish for the purposes of this Act, such information in such form and within such period as may be prescribed.

State Government etc. to furnish requisite information.

6. Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the appropriate Government to ensure availability of work round the year to the rural labour through the employers or in such manner as that Government may deem expedient or necessary.

Appropriate Government to ensure availability of work round the year to the rural labour.

7. The Central Government shall, after the inputs provided by the Governments of the States and Union Territory Administrations, submit an annual report, in such form and in such manner, as may be prescribed, of the administration of the Fund and other welfare activities carried out under this Act, to the President of India who shall cause the report to be laid before both the Houses of Parliament along with action taken thereon as soon as it is received.

Annual Report.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act to supplement other laws.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It is rightly said that India lives in villages because nearly eighty per cent of its population lives in the villages and mostly depends on agriculture and agro based occupations. There are farms, orchards, poultry farms, livestock rearing farms where rural based labour are employed. They work as weavers, small scale entrepreneurs, handicraft artisans, potters, cobblers, blacksmiths etc. There are millions of such agricultural, home based and other workers who are unorganized and remain exploited and poor throughout their lives and live in distress from generations together. Their wages and income are meagre and they do not get employment round the year. As a result, they are poverty stricken and remain neglected even by the State.

In a welfare State, like ours, it is the duty of the State to introduce welfare measures for the have-nots like the rural based labour who remain unorganized and exploited. Hence, it is necessary to formulate a national welfare policy for the rural based labour and constitute a Welfare Fund for them to ameliorate their living conditions. In pursuance of the said Policy, the Central and State Governments will implement the welfare measures contained in that Policy and defray the costs to the Welfare Fund.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of Rural Labour Welfare Fund for which the Central Government shall provide funds in each financial year. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand crore may involve as recurring expenditure per annum.

Non recurring expenditure to the tune of rupees one thousand crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

X

BILL No. LIV OF 2006

A Bill to prohibit littering, smoking, spitting and defiling by way of attending the call of nature in public places which are meant for the general public so as to maintain cleanliness, hygiene and healthy atmosphere in and around such public places and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition of Littering and Defiling of Public Places Act, 2006.

Short title,
extent and
commence-
ment.

(2) It extends to all the Union Territories.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State which has adopted this Act, the Government of that State and in other cases, the Central Government;

(b) "litter" means anything which is likely to cause or contribute to the defilement of the place where it is thrown or left to stink;

(c) "public place" means any place to which the general public, at the material time has, or is entitled or permitted to have access with or without payment and includes road and highway, street, lane, railway station, hospital, bank premises, theatre, Court premises, race course, circus, music hall, gymnasium, swimming pool, dancing hall, market shopping mall, park, educational institutions, religious place and such other places.

Prohibition of
smoking,
spitting,
littering,
urinating in
public places.

3. (1) Notwithstanding anything contained in any other law for the time being in force, smoking, spitting, littering, urinating, defecating in a public place and defiling or defacement thereof is hereby prohibited.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

Penalty.

4. (1) Whoever contravenes the provisions relating to

(a) smoking in a public place shall be liable,—

(i) in the case of first offence, to a fine of five hundred rupees; and

(ii) in the case of second or subsequent offence to a fine of five thousand rupees.

(b) spitting, urinating defecating in a public place shall be liable to a fine of two thousand rupees.

(c) littering in a public place shall be liable,—

(i) in the case of a first offence to a fine which may extend to one thousand rupees; and

(ii) in the case of second or subsequent offence, to a fine which may extend to five thousand rupees.

(d) defiling or defacement shall be punishable with imprisonment for a term which may extend to one year and also with fine which may extend to one lakh rupees.

(2) In penalising a person convicted of an offence under this Act, the Court shall take into consideration not only the purpose of this Act but also the risk of diseases or injury resulting to persons or animal or of damage to property.

Central
Government
to set up
mobile Courts.

5. For the purposes of this Act, the Central Government shall set up such number of mobile Courts as it may deem necessary for carrying out such purposes.

Summary trial
of offences.

6. The mobile courts set up under section 5 may try the offences summarily to deliver instant justice under this Act.

Power to
make rules

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our country littering and defiling of public places is very common. People do not hesitate to spit anywhere particularly after chewing paan or consuming *paan masala*, *gutkha*, *khaini* and other tobacco mixed products without bothering about the ill effects of such spitting. Similarly people can be seen smoking even in 'No Smoking Zones' or while using public transport. Many a time people smoke right under the banner reading "Smoking is Prohibited" without bothering for the environment which is polluted by the toxic smoke generated by such smoking. The smokers also forget that they are also compelling non-smokers to inhale the deadly smoke and to suffer without fault. Sometimes burning cigarettes or *beedi* butts are thrown carelessly resulting in devastating fires many a time in the sensitive and important places.

Similarly people can be seen urinating or even defecating in public places anywhere along the road side or along any wall including those of important national or historical buildings without bothering about the public health resulting in such areas or walls to stink with odour and germinate various viruses crippling of which cause diseases.

It is also a common sight that people leave or throw litter wherever they like including the public places without caring for the health hazard that it may cause.

It has therefore, become necessary to impose a strict ban on smoking, spitting, urinating, defecating, littering, defacement and defilement so that a healthy atmosphere prevails at public places.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for setting up of mobile courts for carrying out the purposes of the Bill. The Bill, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one hundred crore may involve as recurring expenditure per annum.

A non recurring expenditure to the tune of rupees five hundred crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XI

BILL NO. XLIX OF 2006

A Bill to provide for certain rights to consumers who purchase products and services through advertisement on television network and for protection of these rights by regulating marketing of products and services through television to these consumers and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Tele-shopping (Protection of Consumer's Rights) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "cooling period" means a period given to a consumer to examine the products or services purchased by him through tele-shopping without inviting any liabilities;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "tele-shopping" means purchasing of goods or services through television network by dialing a specific telephone number, whether appearing in a free to air channel or paid channel either through terrestrial transmission or cable television network;

(d) Words and expressions used herein and not defined but defined in the Consumer Protection Act, 1986, shall have the meanings respectively assigned to them in that Act.

68 of 1986.

3. (1) Every consumer who purchases any product or article or opts for any service through tele-shopping shall have a cooling period of ten days from the day of receiving such product or service.

Rights of a Consumer.

(2) After receiving the product or service, the consumer shall have the right to return the product or the service to the company offering the same, within a cooling period of ten days, if he is not satisfied with the quality and performance of the product or service without giving any reasons for returning the product or refusing the service.

(3) The consumer shall have the right to receive full refund of money, if paid for the goods or services returned or refused within the cooling period of ten days.

Explanation.—For the purpose of this sub-section "full refund" includes the packaging cost also and not only the cost of the product:

Provided that the cost of returning the products shall be borne by the consumer.

(4) Every consumer shall have the right to a full refund of money including the delivery charges, the cost of return or the installation charges, if the products or services on purchase are found to be faulty.

4. (1) Every consumer shall have the right to receive full and clear information about the product and the services being offered in tele-shopping before and after placing the order for purchase of any product or service in such manner, as may be prescribed.

Right to receive information about the product and services.

(2) Any condition, agreement or contract whatsoever, shall not be enforceable by the supplier unless he gives the required information to the consumer, prior to purchase of the product or services.

5. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act shall be punishable with imprisonment for a term, which may extend to two years or with fine, which may extend to five lakh rupees or with both.

Punishment.

6. Where a person committing a contravention of any of the provisions of this Act or of any rule, made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Contravention by a Company.

Provided that nothing contained in this section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

Explanation.—for the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Summary trial
of offences.

7. All offences under this Act shall be tried summarily in the manner prescribed for summary trial under the Code of Criminal Procedure of 1973.

2 of 1974.

Power to
remove
difficulty.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding
effect of the
Act.

9. The provisions of this Act shall be in addition to, and not in derogation of the provisions in any other law, for the time being in force, relating to tele-shopping.

Power to make
rules.

10. The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Purchasing of products and services through tele-shopping has become the order of the day through which a consumer can get a wide range of products manufactured at various places in the world at his doorstep just by placing an order through a telephone call on a given number. It has reduced the distances in global market. While the manufacturers and retailers have exploited this channel of marketing, the lawmakers have not enacted any legislation to protect the interests of consumers in this area. As a result of which there is no specific law to deal with this kind of shopping.

In view of the fact that persons buying any product or service through tele-shopping do not have any face to face contact nor do they get any opportunity to virtually see or feel or examine the product, the chances of getting a bad deal are quite high, unless there are legal provisions to protect the consumer's interest. At times, full information of the product and service is not given and the poor consumer has to suffer because of the faults of the supplier and retailer who, once the deal is struck impose several conditions for return of the product and service. In many countries, there are laws for the protection of consumers in respect of tele-shopping. These laws provide right to consumers, such as, after receiving the goods if the consumer feels that he does not want it, the product can be returned within a specified time of receiving the goods for a full refund without offering any explanation for the return. Similar regulations are also required in our country for protecting the consumers who are opting for tele-shopping.

Hence this Bill.

VIJAY J. DARDA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is of normal character.

XII

BILL NO. LIII OF 2006

A Bill to amend the Commissions for Protection of Child Rights Act, 2005.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Commissions for Protection of Child Rights (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

Amendment
of section 3.

2. In section 3 of the Commissions for Protection of Child Rights Act, 2005 (herein after referred to as the Principal Act), in sub-section (2),—

(i) in clause (a), for the word “person”, the word “woman” shall be substituted;

(ii) in clause (b), for the words “at least two shall be women”, the words “at least four shall be women” shall be substituted;

(iii) in clause (b), the following proviso shall be inserted, namely:—

"Provided that each member shall have at least ten years of experience in the prescribed field."

3. In section 4 of the principal Act, for the existing proviso the following proviso shall be substituted, namely:— Amendment of Section 4.

"Provided that the Chairperson and the members of the Commission shall be appointed on the recommendations of a Committee consisting of the Prime Minister, Leaders of the Opposition in the Rajya Sabha and Lok Sabha and the Ministers of Home Affairs and Human Resource Development."

4. In section 13 of the principal Act, in sub-section (1), after clause (e) the following clause shall be inserted, namely:— Amendment of Section 13.

"(ee) look into the matters relating to children in need of special education and health care particularly the mentally and physically challenged children."

5. In section 17 of the principal Act,— Amendment of Section 17.

(i) in sub-section (1) for the word 'may', the word 'shall' shall be substituted

(ii) in sub-section (2),—

(a) in clause (a) for the word 'person', the word 'woman' shall be substituted;

(b) in clause (b) for the words "at least, two shall be women", the words "at least, four shall be women" shall be substituted.

(iii) in clause (b), the following proviso shall be inserted, namely:—

"Provided that each member shall have at least ten years of experience in the prescribed field."

6. In section 18 of the principal Act, for the existing proviso, the following proviso shall be substituted, namely:— Amendment of Section 18.

"Provided that the Chairperson and members of the Commission shall be appointed on the recommendations of a committee consisting of the Chief Minister, Leader of Opposition in the Legislative Assembly and the Ministers in charge of Departments of Home and Child Welfare."

STATEMENT OF OBJECTS AND REASONS

The Commissions for Protection of Child Rights Act, 2005 was enacted by Parliament in December, 2005. The Act deals with the constitution of a National Commission and State Commissions for protection of child rights and children's courts for providing speedy trial of offences against children or of violation of child rights. It is a well known fact that it is the mother who understands the child better than anyone else. But, the women have not been given adequate and desired representation in the scheme of the Commissions for Protection of Child Rights Act, so much so that even the post of Chairperson of the Commission has not been reserved for a woman. It has been felt by the public at large that women should be given a major and significant role in the functioning of the Commission. For this, at least, four of the six members of the commission should be women besides the chairperson who should always be a woman. Further, the Act does not prescribe for any experience to become a member of the Commission. It is also desirable that the members of a Commission should not be appointed without possessing adequate experience in the prescribed field. Hence, it is proposed that the members to be appointed to the Commission must have, at least, ten years of experience in the respective field. Further, apprehensions have also been expressed regarding independence of the Commission in view of the provisions in the Act for appointment of the Chairperson and the members of the Commission. In order to make the Commission more independent, it would be appropriate if the Chairperson and members are appointed on the recommendation of a Committee consisting of the Prime Minister, Leaders of Opposition in Rajya Sabha and Lok Sabha and the Ministers of Home Affairs and Human Resource Development. Similar provisions have been proposed in the Bill for State Commissions also.

Section 17 of the Bill empowers the State Governments to constitute State Commissions for protection of child rights. The word used in this section is 'may' which gives a wide discretion to the State Governments which may or may not constitute the Commission. The experience in this regard is not very encouraging, as many of the State Governments did not constitute the Commissions under different enactments where similar provisions exist. Therefore, it is felt that there should be a mandatory provision for the States to constitute State Commissions for the welfare and development of the children all over the country. An amendment has been proposed in the Act accordingly. Concerns have also been expressed with regard to matters pertaining to educational and health care of the children, particularly the mentally and physically challenged children. Therefore, it is proposed that the Commission should also look after these issues.

The Bill seeks to achieve the above objective by amending the relevant provisions of the Act.

VIJAY J. DARDA

XIII**BILL No. LX OF 2006**

A Bill to provide for the administration of the Rajya Sabha Secretariat by constituting a Commission to look after recruitment and conditions of services of the officers and staff of the Rajya Sabha Secretariat and for matter connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Rajya Sabha Secretariat (Administration) Act, 2006. Short title and commencement.
- (2) It shall come into force with immediate effect.
2. In this Act, unless the context otherwise requires,— Definitions.
 - (a) "Chairman" means Chairman of the Rajya Sabha;
 - (b) "Commission" means the Rajya Sabha Secretariat commission constituted under section 3 of this act;
 - (c) "Deputy Chairman" means the Deputy Chairman of the Rajya Sabha;
 - (d) "House" means the Rajya Sabha;

(e) "Leader of the House" means the Leader of the Rajya Sabha or a member of the Council of Ministers, who, being a member of the House is nominated by the Leader of the House for purposes of this Act;

(f) "Leader of the Opposition" means a member of the House who is recognized so by the Chairman as such or if there is no such leader, the leader of the party in the Opposition having the largest number of members in the House;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Secretary-General" means the Secretary-General of the Rajya Sabha.

Constitute of
Rajya Sabha
Commission.

3. (1) There shall be constituted a Commission to be known as the Rajya Sabha Secretariat Commission by the House in such manner as may be prescribed to perform the functions conferred on it under this Act.

(2) The Commission shall consist of the following members:—

(i) The Chairman;

(ii) The Deputy Chairman;

(iii) The Leader of the House or his nominee;

(iv) The Leader of the Opposition or his nominee;

(v) Five members of the House to be elected by the House by the system of proportional representation by means of a single transferable vote.

(vi) The Secretary-General as Member-Secretary.

Chairman of
the Commis-
sion.

4. (1) The Chairman shall be the *ex-officio* Chairman of the Commission.

(2) While the office of the Chairman is vacant, the Deputy Chairman shall function as the Chairman of the Commission and, if for any reason, the Chairman is unable to act as the Chairman of the Commission, the Deputy Chairman shall act as the Chairman of the Commission.

Term of
members
of the
Commission.

5. (1) The Chairman and the Leader of the House or his nominee shall continue to be the members of the Commission until immediately before the assumption of the office by the respective successors of the Chairman and the Leader of the House.

(2) A member of the Commission other than the Leader of the House or his nominee shall cease to be a member of the Commission if—

(i) he ceases to be a member of the House; or

(ii) another person is nominated or appointed in the post by virtue of which he becomes the member of the Commission.

Appointment
of Secretary-
General.

6. (1) There shall be a Secretary-General who shall be appointed by the President of the India on the recommendation of the Commission.

(2) The Secretary-General shall be appointed from amongst the persons who have distinguished themselves and made their contribution in the service of Parliament in various capacities in the secretariat for not less than twenty years.

(3) The Secretary-General shall be the head of the secretariat of the Rajya Sabha.

Vacation of
office by
Secretary-
General.

(4) The office of the Secretary-General shall become vacant,

(i) on his resignation in writing addressed to the President;

(ii) on his attaining the age of superannuation as may be fixed by the Commission;

(iii) on his removal by the President upon an address by the Rajya Sabha in a like manner as the Judge of the Supreme Court.

7. Except as provided in section 6 with regard to the appointment of the Secretary-General, the Commission shall appoint all staff in the secretariat and over and above the functions provided elsewhere in this Act, the functions of the Commission shall be—

Function of
Commission.

(i) to frame rules regulating the recruitment, appointment, promotion and other service conditions of the Secretary-General and other officers and staff of the secretariat;

(ii) to function as appellate authority against the orders of the Chairman of Secretary-General as the case may be, submitted by the officers and staff of the secretariat;

(iii) to determine the number of staff of the secretariat, their scales of pay, and remuneration;

(iv) to ensure that the classification, grading, salaries, allowances, and other conditions of service, including pension and other benefits of the personnel are kept in conformity with personnel in other comparable services in the Commonwealth countries having Parliamentary or presidential form of Government and also consistent with the service requirements of the House;

(v) to prepare an estimate for each financial year of the expenses of the services of the House and of any other expenses incurred for the service of the House and lay them before the House;

(vi) to exercise all powers necessary to implement the provisions of clause (1) of article 98 of the Constitution towards the constitution of a separate, independent and autonomous Secretariat of the House.

(vii) to give recognition to various staff associations in such a manner as may be prescribed.

8. The financial matter of the Secretariat shall be dealt with by a Finance Committee which shall consist of the Chairman, four members of the Rajya Sabha to be elected by the House in such manner as may be prescribed and two officers of the Secretariat to be nominated by the Chairman.

Constitution
of Finance
Committee.

9. (1) The Commission may delegate any of its functions to the Chairman or the Secretary-General.

Delegation
of functions
by the
Commission.

(2) Anything done by or in relation to a person to whom functions are delegated under sub-section (1) shall have the same effect as if it has been done by or in relation to the Commission.

(3) Any delegation made under this section or any amendment or revocation of such a delegation shall be mentioned in the annual report of the Commission.

(4) Notwithstanding any delegation made under this section, the Commission shall retain the ultimate responsibility for considering any representation made in relation to matters affecting the interests in connection with the employment of staff in the service of the House by staff associations which are recognized by the Commission in respect of such staff and for the conduct of consultations and negotiations about such matters with those staff associations.

10. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy.

Act or
proceeding
not to be
invalidate by
vacancies.

11. The Commission shall, as soon as possible, after the end of each financial year prepare and present to the House its annual report giving a full account of its activities during the preceding financial year.

Annual
reports of
Commission.

Effect of
constitute of
Commission
on present
employees.

12. All persons employed in the service of the House immediately before the commencement of this Act, shall be treated for all purposes as if their appointment had been made by the Commission unless the Commission decides otherwise.

Power of
Commission
to make rules.

13. (1) The Commission may make rules to regulate its procedure and conduct of its business.

(2) The Commission may, by notification in the Official Gazette, make rules to regulate recruitment and conditions of service of the officers and staff of the secretariat.

(3) Every rule made under this Act shall, as soon as may be, after it is made, be laid before the House while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session, immediately following the session or the successive sessions aforesaid the House agrees in making any modification in the rule or that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.

Transitional
provisions.

14. All rules, regulations and orders made or deemed to have been made under article 98 of the Constitution being in force immediately before the commencement of this Act, shall be deemed to have been made by the Commission and shall continue to be valid and operative unless modified or revoked by the Commission, so however that anything contained therein being inconsistent with any provision of this Act, shall be of no effect and be void to the extent of such inconsistency.

Power to
remove
difficulty.

15. If any difficulty arises in giving effect to the provisions of this Act, the Commission may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

Article 98 of the Constitution provides for a separate Secretariat for each House of Parliament. It further provides that the Parliament may, by law, regulate the recruitment and the conditions of service of persons appointed to these separate secretariats. Till such time, Parliament regulates these issues, these powers have been given to President to make rules on them. Even after 56 years of the enactment of the Constitution, no law has been framed by Parliament to regulate recruitment and conditions of service of persons appointed to these two secretariats. Therefore, the enactment of such a law is long overdue.

The concept of an independent secretariat for legislature is an essence of Parliament democracy. Under the democratic set up adopted in our country, the three wings, i.e., executive, legislature and judiciary have been envisaged to be separate and independent of each other. This can be realized if the secretariats serving these wings are made independent so that they can discharge their duties in all fairness without any fear or favour. The significance of this conceptualization of a secretariat independent of the executive was fully realized in the 1920s under the leadership and guidance of Pandit Motilal Nehru, Lala Lajpat Rai and the President of the Constituent Assembly, Shri Vithalbhai Patel.

Therefore, the unique position of the Rajya Sabha Secretariat demands a special sense of dedication and impartiality in discharge of duties from its officers and staff. It also requires a broad-based institutional arrangement for running the House in an effective manner. It is necessary to empower the Chairman for watching and safeguarding the interests of the secretariat staff in the service of the House and its members. Envisaging this, the Bill provides for the establishment of a House Commission to look after the whole gamut of administration of the Rajya Sabha and matters connected therewith.

VIJAY J. DARDA

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to set up a Rajya Sabha Commission. Its members, other than the ex-officio Chairman of the Rajya Sabha, who is the Vice-President of India, are the members of the House who would be discharging their duties in relation of the Commission as members. Clause 8 seeks to set up a Financial Committee to look after the financial affairs of the Secretariat. The expenditure to be incurred on the payment of members TA/DA as a result of setting up of the Rajya Sabha Commission would be a marginal one and it is estimated that an expenditure of Rupees ten crore may be involved. There will not be any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill provides for rule-making power to the Commission. The matters in respect of which such rules may be made are matters of procedure and administrative details only. The delegation of legislative power is, therefore, of a normal character.

XIV

BILL NO. LV OF 2006

A Bill to provide for compulsory education system in the country.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Compulsory Education Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date, as the Central Government may by notification in the official Gazette appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "Compulsory Education System" means an educational system, through which education will be made available to all, whether poor or rich, throughout India, from primary to senior secondary level.

3. (1) The appropriate Government shall implement the Compulsory Education system throughout the country in such manner as may be prescribed.

Appropriate Government to implement compulsory education system.

(2) Without prejudice to the generality of the aforesaid provisions the appropriate Government shall provide to each and every student in country the following facilities from primary to senior secondary level in schools:

(a) Total expenditure to be incurred on admission and tuition fee;

(b) Free books, note books and items of stationery;

(c) Free hostel facility, wherever necessary; and

(d) Scholarships in such cases, as may be prescribed.

4. The appropriate Government shall establish and maintain or shall cause to be established or maintained such number of primary, middle or senior secondary schools under its jurisdiction, as may be necessary for implementation of the provisions of this Act:

Appropriate Government to establish schools.

"Provided that the appropriate Government shall establish at least one senior secondary school in each area within its jurisdiction having a population of one thousand."

5. It shall be the duty of every parent to enroll their children in the school for obtaining education and they shall not prevent them in any way from attending school until the completion of their education under compulsory education system.

Duty of the parents to enroll their children in school.

6. No person shall engage any child in a job, which causes hindrance in his or her attending school to obtain education.

Children not to be engaged in jobs.

7. If any person including parents of children prevents any boy or girl child from going to school or causes hindrance or obstruction in any way, he shall be punishable with imprisonment, which may extend to six months.

Penalty for obstruction.

8. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the subject matter dealt with in this Act.

Overriding effect of the Act.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Article 21A of the Constitution provides that it is the responsibility of State government to provide free and compulsory education to all children of the age of six to fourteen years. Though the government have taken a number of steps in this direction, yet these are not sufficient. We have not been able to provide education to all children even after 58 years of independence.

Competence in reading and writing is a significant factor of human prospective capability. Literacy is the first step in getting access to the means of education and having knowledge and information. Hence, compulsory education should be provided upto senior secondary level and scholarships may be provided to the children who are good at studies.

It is also necessary to provide free food, dress, books and scholarships to the poor students so that the parents are inspired to send their wards to school. It is proposed in the Bill that the parents must send their children to school otherwise they shall be punished. This measure will achieve the desired results and the illiteracy will be eradicated from the country soon.

Hence, this Bill.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill has the provision of compulsory education from primary level to higher secondary level. Clause 4 provides that appropriate Govt. shall establish and maintain schools for providing free education. It is not confirmed at this stage that how many schools will be required to implement the provisions of the Bill. Some expenditure will be incurred on establishment of schools, free food and uniform, etc. apart from giving scholarships to the poor students. The expenditure to be incurred in respect of the schools in Union Territories will involve expenditure from the Consolidated Fund of India. The expenditure to be incurred in respect of the schools in the States will involve expenditure from the Consolidated Funds of concerned states. However, some aid will be provided by the Central Government in this regard.

It is estimated that a sum of rupees fifteen crore may involve as recurring expenditure. A sum of rupees twenty five crore is also likely to be involved as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XV

BILL NO. LVII OF 2006

A Bill to provide for the compulsory voting in an election by each and every citizen of the country and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Compulsory Voting Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commencement.

Compulsory voting by every eligible citizen.

2. Every citizen, who is eligible to cast his vote in any election, shall exercise his right to vote compulsorily when called for by the Election Commission:

Provided that a citizen may be exempted from compulsory voting only if—

(a) he is physically incapacitated from an illness of a serious nature and produces a medical certificate from a registered medical practitioner testifying such incapacity; or

(b) the Election Commission or any such other officer empowered by it, satisfies himself after receiving request from the citizen before or after the election that the reasons for such an exemption are *bonafide* and genuine.

Election Commission to send the list of voters who have not cast their vote.

3. After every election the Election Commission shall send the lists of names of all those eligible voters, who have not cast their votes, to the Central Government and each state government.

Establishment of polling booths etc.

4. The Election Commission shall ensure that,—

(i) the polling booths in adequate numbers, at convenient places are established in each Lok Sabha/Vidhan Sabha constituency at the time of election.

(ii) the polling booths are established in such a manner that the number of electorate in each polling booth remains equal and distance between two polling booths is not more than half a kilometer:

Provided that the polling booths in hilly and desert areas shall be established according to the geographical convenience and density of population.

(iii) safety and security to all the voters coming to cast their votes is provided at the polling booths.

(iv) appropriate arrangements are made for enabling persons deputed for polling duty to cast their votes.

(v) separate arrangements are made in each polling booth for exercising of their franchise by the senior citizens, physically incapacitated persons and pregnant women.

Punishment.

5. Any eligible citizen, who fails to cast his vote in any election—

(i) shall be liable to a fine of rupees five hundred; or

(ii) shall be punishable with imprisonment for two days; or

(iii) shall be punishable with forfeiture of his ration card; or

(iv) shall be debarred from contesting any election for a period of ten years from the date of his conviction; or

(v) shall be debarred from allotment of any plot or house in a Central/State Government owned organisation; or

(vi) shall be debarred from taking loan of any kind in all the Central/State Government owned financial institutions; or

(vii) shall be debarred from entitlement to any welfare scheme announced by the Central/State Governments from time to time:

Provided that if such a person is an employee of the Central or the State Government or any public sector undertaking owned by Central/State Government, he shall be punished with—

(a) forfeiture of ten days salary; and

(b) delay in promotion for a period of two years.

6. Any citizen who in spite of his illness or physical incapacity has cast his vote at an election or any citizen who has cast his vote at all elections held during a period of fifteen years preceding the commencement of this Act without any break shall be—

Reward.

(a) given preference in services under the Central Government.

(b) given preference in admission to his children in the institutions of higher education.

7. The provision of this Act shall be in addition to and not in derogation of any law for the time being in force regulating any of the matters dealt with in this Act except to the extent the provisions of other laws are inconsistent with the provisions of this Act.

Application of other laws not barred.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Our country is the largest democratic country in the world and its population has already crossed the one billion mark. But only about 35 to 45 per cent of voters of the country exercise their franchise in any election. Often, it has been observed during elections that the number of actual voters casting their votes is far less than the eligible voters and the average number of votes polled is also very less.

It is evident from the general elections held for Lok Sabha and Vidhan Sabha in the last few years that voting was less than 35 per cent in many States and in number of cases people had boycotted elections and thus did not vote deliberately.

All the citizens should exercise their right to elect their representatives, so that the elections reflect the will of the whole electorate and not merely a part of it.

With a view to increasing the voting percentage, the Bill proposes to make it compulsory for every eligible voter to vote and provide for exemption only in cases where the voter is physically incapacitated due to illness of serious nature or the voter has a genuine reason for not casting his vote.

Since the provision is being made compulsory, punishment is also sought to be given to those who do not vote in elections. However, reward is also proposed to be given to those persons who vote at elections in spite of their illness or vote without any break.

Hence this Bill.

JAI PARKASH AGGARWAL

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that polling booths in adequate numbers shall be established in each constituency. It also provides for special arrangements for the persons deputed for public duty, incapacitated persons and women besides safety and security of citizens coming to cast their vote.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees eight crore per annum.

A non-recurring expenditure of about rupees fourteen crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill and the rules relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

YOGENDRANARAIN,
Secretary-General.